

### C. Remarks

The claims are 1-50, with claims 1, 8, 13, 21, 38, 39 and 48-50 being independent. Claims 1-7 and 21-50 have been withdrawn from further consideration by the Examiner as being drawn to non-elected subject matter. Claims 8, 11, 12 and 17-20 have been amended to better define the invention. In particular, claim 8 has been amended to set forth that the area therein is made of an amorphous material and to make certain formal amendments; the remainder of the amendments to the claims were to remove improper multiple dependency. Each amendment is fully supported by the application as filed; accordingly, no new matter has been added. Reconsideration of this application is respectfully requested.

For purposes of disclosure, Applicants would like to bring the Examiner's attention to the attached English translation of the International Preliminary Examination Report corresponding to the present case. Therein, all of claims 1-50 were deemed to possess novelty, inventive step and industrial applicability. The two references noted therein were made of record in this case by Applicants' Information Disclosure Statement of October 30, 2003.

The Examiner objected to claims 11, 12 and 17-20 under 37 C.F.R. §1.75(c) as being in improper multiple dependent form. In view of Applicants' amendment of each of claims 11, 12 and 17-20 to remove the improper multiple dependency, Applicants respectfully request removal of the objection.

Claims 8 and 13-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kikitsu (U.S. Patent No. 6,602,620). Claims 9 and 10 stand rejected under 35 U.S.C. §103(a) as being obvious over Kikitsu. Applicants respectfully traverse these rejections.

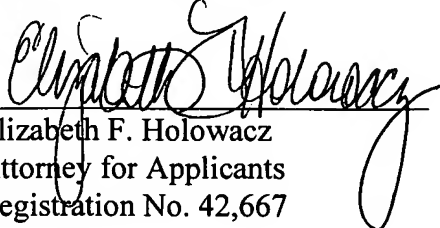
Claims 8-12 are directed to function devices characterized by being obtained from a structure comprised of columnar members and an area surrounding the columnar members by filling a porous body obtained by removing the columnar members from the structure with a functional material. Claims 13-20 are directed to function devices obtained by filling a porous body with a functional material, characterized in that the porous body includes a plurality of columnar pores and an area surrounding the pores, and the area is comprised of C, Si, Ge or a combination thereof. Importantly, as now claimed in both independent claim 8 and independent claim 13, the area surrounding the columnar members or the area surrounding the pores is made of an amorphous material.

Kikitsu simply does not disclose or suggest the use of an amorphous material in the same manner as is required by the present claims. Because of Kikitsu's failure to disclose or suggest this key feature of the present invention, Kikitsu does not anticipate or render obvious the present invention. Accordingly, Applicants respectfully request withdrawal of the §102 and §103 rejections premised upon Kikitsu.

In view of the foregoing amendments and remarks, favorable reconsideration and passage to issue of the present case is respectfully requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
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From the INTERNATIONAL BUREAU

**PCT**NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT

(PCT Rule 72.2)

To:

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JAPON

Date of mailing ( <i>day/month/year</i> ) 21 October 2004 (21.10.2004)	
Applicant's or agent's file reference CFO17136WO	IMPORTANT NOTIFICATION
International application No. PCT/JP2003/002901	International filing date ( <i>day/month/year</i> ) 12 March 2003 (12.03.2003)
Applicant CANON KABUSHIKI KAISHA et al	

## 1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

## 2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

CN, EP, KR

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AU, BR, IN, MX, SG, US

## 3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

PCT Application  
PCT/JP2003/002901



Applicant's or agent's file reference CFO17136WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP2003/002901	International filing date (day/month/year) 12 March 2003 (12.03.2003)	Priority date (day/month/year) 15 March 2002 (15.03.2002)
International Patent Classification (IPC) or national classification and IPC C23C 28/00, B82B 11/00, C01B 33/02, G11B 5/66		
Applicant CANON KABUSHIKI KAISHA		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.  
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 26 August 2003 (26.08.2003)	Date of completion of this report 05 December 2003 (05.12.2003)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP2003/002901

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☐ the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP03/02901

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	1-50	YES
	Claims		NO
Inventive step (IS)	Claims	1-50	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-50	YES
	Claims		NO

**2. Citations and explanations****Claims 1-20**

Document [JP, 62-270473, A (NOK K.K.), 24 November, 1987 (24.11.87)] cited in the ISR does not describe or suggest that, in a method of manufacturing a functional device that includes a process of filling a functional material into (1) a porous element, the said porous element is obtained through a process of preparing a structure where the said porous element contains (a) column-like members and (b) a region enclosing the said members, and (2) a process of removing the said column-like members from the said structure to form such porous element. This feature would not be obvious to a person skilled in the art, either.

**Claims 21-50**

Document [JP, 63-220411, A (NEC Corp.), 13 September, 1988 (13.09.88)] cited in the ISR does not describe or suggest that, for a magnetic recording medium that has an under layer and a recording layer on a substrate wherein the recording layer has (a) column-like members containing magnetic material and (b) a region enclosing the said column-like members, (1) the said region enclosing said column-like members containing silicon, SiGe, or oxides of those substances, (2) the said under layer has a square crystal array inward in the face of the said substrate, and (3) the said column-like member has a hard magnetic part having an L<sub>1</sub>o regular structure C-axis-oriented in the vertical direction of the said substrate. This feature would not be obvious to a person skilled in the art, either.